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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 703 OF 2007

IN

FIRST APPEAL NO. 2356 OF 2005

Shirish Baburao Darekar. ...Applicant.

Vs.

The Municipal Corporation of Greater Bombay. ...Respondents.

Mr. Amit Kapse for the applicant.

Mr. J.J.Xavier for the BMC.

CORAM : ANOOP V. MOHTA,J.

DATED : 17th September, 2007

P.C.

1. By order dated 4th May, 2006, this Court has granted permission to the applicant to apply for regularization within the stipulated period. The applicant, however, for various reasons as mentioned in the application including his illness, unable to move such application within stipulated period. Therefore, this application for extension of time.

2. After considering the averments made and in view of the fact that because of non-filing of the application as referred above, the respondent Corporation unable to proceed with the action of demolition, though there was clear observation that

the Corporation would be free to proceed with the action of demolition.

3. The learned counsel appearing for the appellants however, makes a submission that as the application is pending in the Court and therefore, the applicant could not complete the formalities. In my view, this should not be the excuse. If the applicant really want to move such application, by this time all the formalities would have been completed. Any way looking into the matter and at this stage, on undertaking from the applicant that he shall file such application pursuant to the order of 4th May, 2006 within six weeks. The party who wants to move an application for regularization can not take so much time and therefore, hold on the corporation proceedings. I am of the view, that the applicant is liable to pay costs of Rs.1,000/- to be paid within a week to the respondent Corporation as condition precedent.

4. The respondent corporation shall consider such application in accordance with law if filed within six weeks as undertaken.

5. The application is disposed of, accordingly.

(ANOOP V. MOHTA, J.)